

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Marteebia Hill, ) C/A No. 6:23-cv-05731-JDA  
 )  
 Plaintiff, )  
 )  
 v. ) **OPINION AND ORDER**  
 )  
 )  
 Whitten Center, Elizabeth Redd, )  
 Craig Byrd )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

This matter is before the Court on two amended motions to dismiss filed by Defendants and the Magistrate Judge's Report and Recommendation ("Report"). [Docs. 28; 44; 54.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kevin McDonald for pre-trial handling.

On July 8, 2024, the Magistrate Judge issued a Report recommending that Defendants' second amended motion to dismiss [Doc. 44] be granted, that the case be dismissed for failure to prosecute and failure to participate in discovery pursuant to Federal Rules of Civil Procedure 37(d) and 41(b), and that the first amended motion to dismiss [Doc. 28] be found as moot. [Doc. 54.] The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if she failed to do so. [*Id.* at 9.] She did not file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final

determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, Defendants’ second amended motion to dismiss [Doc. 44] is GRANTED, this case is DISMISSED with prejudice pursuant to Rules 37(d) and 41(b), and Defendants’ first amended motion to dismiss [Doc. 28] is FOUND AS MOOT.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin  
United States District Judge

August 6, 2024  
Columbia, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.